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FISCAL IMPACT STATEMENT

LS 6336

BILL NUMBER: SB 286

NOTE PREPARED: Dec 22, 2009

BILL AMENDED:

SUBJECT: Ignition Interlock Devices.

FIRST AUTHOR: Sen. Waltz

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill requires a court to prohibit a person convicted of operating while intoxicated from operating a motor vehicle that is not equipped with an ignition interlock device for the remainder of the person's life if the person has a prior conviction for operating while intoxicated within 10 years before the current conviction. It also makes conforming amendments and repeals a superseded provision.

Effective Date: July 1, 2010.

Explanation of State Expenditures:

Explanation of State Revenues: *Class A Misdemeanor-* The bill establishes a new Class A misdemeanor for violating a court order to install an ignition interlock device for life. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

If a criminal action, infraction, or ordinance violation involves a traffic violation, including this proposed offense, a highway work zone fee of either 50 cents or \$25.50 is assessed.

Explanation of Local Expenditures: *Ignition Interlock Devices*- Requiring ignition interlock devices would result in minimal costs to counties. Counties do not incur any additional cost when a court orders a person convicted of operating a vehicle while intoxicated to install and maintain an ignition interlock system. Persons who are ordered to install and properly maintain an ignition interlock system on their car are to pay the entire costs of the operation. The average fee for installing an ignition interlock device is between \$70 and \$100, and the average cost of maintaining the device is between \$30 and \$60 per month. While current law does not require indigent persons convicted of OWI to pay to have an ignition interlock device installed, courts are not required to pay the cost of installing and maintaining an ignition interlock device, either.

Under current law, courts can suspend a person's driving privileges or order the use of an ignition interlock device as a condition of probationary driving privileges if the person did not refuse the test and has no prior OWI convictions within the previous ten years. Any other person with an OWI offense that has occurred within ten years is required to have an ignition interlock device installed during the probationary period. (IC 9-30-5-16) A court may substitute an alcohol treatment program using disulfiram or a similar substance in lieu of installing ignition interlock devices in the vehicles of drivers if the prior offense occurred within the past five years. (IC 9-30-5-7(d)).

As proposed, any time the sentencing court grants probationary driving privileges to persons who have been convicted of an OWI and have had a previous OWI conviction within the past ten years, the court must order that an ignition interlock device be installed in person's car for the rest of the person's life. In addition, a court may *not* substitute an alcohol treatment program using disulfiram or a similar substance in lieu of installing ignition interlock devices in the vehicles of drivers with prior OWIs if the prior OWI occurred less than five years prior to the current conviction. (Disulfiram is described below.)

While the fiscal effect on the counties is likely to be minimal, it is possible that the court could pay the cost if the person is indigent. A minimal estimate of the effect this would have on the courts is based on the number of persons convicted of an OWI who have had a prior OWI conviction within the past 5 years. (*Note: Information on the number of persons with prior offenses between 5 and 10 years is currently not available.*) Between 2003 and 2008, an average of 3,976 persons with suspended licenses had OWI priors within the past 5 years.

New License Suspensions by Calendar Year of Persons with Prior OWI Offense Within Five Years						
2003	2004	2005	2006	2007	2008	6-Year Average
4,317	4,220	3,954	3,279	4,591	3,495	3,976

As an illustration, LSA estimates that 1,113 OWI offenders could be indigent based on the percentage of misdemeanants who qualified for pauper attorney services in 2007 ($55,133 \text{ pauper cases} \div 195,360 \text{ cases disposed} = 28\%$ $\times 3,976 = 1,113$). While counties would not be obligated to pay for the costs of installing and operating these ignition interlock devices, the added costs could range between \$478,000 and \$911,000, using the monthly costs shown earlier.

Background: *Ignition Interlock Orders Between CY 2005 and CY 2009* -- When compared to the number of license suspensions for OWI, it appears that ignition interlocks are not frequently used by sentencing courts.

BMV reports that 3,295 licenses were issued between 2005 and 2009 (roughly 660 per year) which restrict the holder of the license to only operate a vehicle equipped with an interlock device.

The following table shows 86 counties who ordered ignition interlocks be installed and the frequency of these court orders.

Licenses Requiring Ignition Interlock Installation Issued Between 2005 and 2009	
Number of Licenses Issued In County	Counties in which Ignition Interlocks were Ordered
4 or Fewer (26 Counties)	Daviess, Decatur, Harrison, Jackson, Jay, Jefferson, Jennings, Knox, Monroe, Morgan, Newton, Ohio, Orange, Owen, Perry, Pike, Rush, Scott, Shelby, Spencer, Steuben, Switzerland, Tipton, Union, Washington, Wells
Between 5 and 11 (19 Counties)	Adams, Bartholomew, Fayette, Franklin, Gibson, Jasper, Kosciusko, LaGrange, Marshall, Miami, Parke, Posey, Putnam, Ripley, Sullivan, Vermillion, Wabash, Wayne, Whitley
Between 12 and 32 (19 Counties)	Benton, Blackford, Boone, Carroll, Cass, Clark, Clay, DeKalb, Dubois, Floyd, Grant, Hendricks, Howard, Johnson, Madison, Pulaski, Randolph, Starke, White
Between 33 and 100 (16 Counties)	Clinton, Dearborn, Elkhart, Fountain, Fulton, Hamilton, Hancock, Henry, Lake, LaPorte, Montgomery, Noble, Porter, Vanderburgh, Warren, Warrick
Between 101 and 275 (5 Counties)	Allen, Delaware, Marion, Saint Joseph, Vigo
872 (1 County)	Tippecanoe

Use of Disulfuram – Disulfuram is a drug that causes severe (but temporary) physical distress for persons who consume alcohol after taking the drug. Under current law, a court can only order an OWI offender to use disulfuram when the offender has had an OWI conviction within the past five years. Few courts currently use disulfuram as part of an alcohol treatment program.

A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: Bureau of Motor Vehicles.

Local Agencies Affected: Trial courts, city courts, local law enforcement agencies.

Information Sources: Bureau of Motor Vehicles; *2007 Indiana Judicial Report*.

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